DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 99-0608P
Financial Institutions Tax
Calendar Year Ended 12/31/97

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

II. **Tax Administration** – Interest

Authority: IC 6-8.1-10-1; 45 IAC 15-11-1

Taxpayer protests the interest calculation.

STATEMENT OF FACTS

Taxpayer, in a letter dated October 4, 1999 requested a waiver of penalties for liability no. 97-0560546 dated September 23, 1999 and a recalculation of interest.

Taxpayer states it had filed Financial Institution Franchise Tax Returns for many years as a separate entity and that during the spring of 1998, the IDOR commenced an audit of its 1994-1996 franchise tax returns. As a result of this audit, the IDOR issued its audit findings during the summer of 1998. IDOR's audit concluded that the taxpayer should be filing a combined Indiana franchise tax return with its parent company. As a result of this audit, the 1997 Indiana Financial Institutions Franchise Tax Return needed to be prepared as a combined return with its parent. Since this determination was made after the original due date of the 1997 Indiana Financial

Institution Franchise Tax Return (April 15, 1998), and that the tax return reflected a balance due, the taxpayer recognized the fact that it owed the IDOR interest of $3,157 which was computed based upon a tax liability of $90,216.16 for the period of April 16, 1998 through October 15, 1998 (the extended due date). However, based upon Notice Number 99-000543161, the IDOR computed the interest to be $3,847.27. Since this amount differs significantly from the amount computed by the taxpayer, the taxpayer requests a copy of the IDOR's interest calculation in order to compare the two calculations.

I. **Tax Administration** – Penalty

DISCUSSION

At issue is whether the taxpayer was negligent in reporting and remitting Financial Institution Tax timely.

Taxpayer states that between the period of when the 1997 Indiana Financial Institution Franchise Tax Return was originally due (April 15, 1998) and its extended due date (October 15, 1998), the IDOR ruled that taxpayer should be filing a combined franchise tax return with its parent. This changed the complexity of taxpayer's tax return as well as resulted in a franchise tax liability. This determination was not known until the summer of 1998, well after the due date of April 15th. Since the taxpayer became aware of the change in its filing status, as a result of the IDOR audit, subsequent to the time that the tax return and tax payments were originally due (April 15, 1998), the taxpayer requests that the assessed penalty of $9,021.62 be abated.

45 IAC 17-3-5 requires the filing of a combined return covering all operations of a unitary business and includes all taxpayer members of the unitary group. Taxpayer is a component of a large and sophisticated financial institution and the unitary filing status for these entities is basic to the Financial Institutions Tax. 45 IAC 17-3-5 was filed on January 22, 1991, and its explanation regarding taxability is clear. Taxpayer is sophisticated and should have been aware of the changes in tax law.

The Department finds that the taxpayer was negligent in not making itself aware of the Indiana tax laws, therefore, the request for penalty waiver is denied.

FINDING

Taxpayer's protest is denied.

II. Tax Administration – Interest

DISCUSSION

Taxpayer protests the interest rate calculation and states the assessment is overstated. Interest is calculated up to and including sixty days after the issue of the AR-80 billing to allow the taxpayer time to pay or to file a written protest. Taxpayer must reduce the interest accordingly if payment is made prior to the sixty-day expiration. Since penalty is not waived, interest continues to accrue for the balance of the liability.

FINDING

Taxpayer's protest is denied.

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